

August 02, 2021

Delivery via First-Class Mail (USPS)

The Hon. Raymond J. Dearie  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: United States v. Andre Wilburn, No. 19-CR-139 (RJD) #4

Defendant's Letter-Motion for Co-Conspirator Statements and Incorporated  
Memoranda in Support

Dear Judge Dearie:

Please construe this letter as a formal motion. The defendant, Andre Wilburn, respectfully moves this Honorable Court for entry of an order requiring the government to disclose to the defendant, in advance of sentencing, the matters, or classes of matter, and all information or documents pertaining thereto, as are set forth and described. Further, Andre Wilburn, requests that the government affirm or deny the existence of co-conspirator statements (discovery) sought to avoid confusion regarding whether a document exists and has not been disclosed or that a document exists and has been overlooked.

Defendant requests that he be allowed to inspect and copy the following:

1. All statements of any unindicted or indicted co-conspirators in the possession of the government which were made during the course of and in furtherance of the conspiracy alleged in the indictment.

Authority:

All statements made by a co-conspirator of a party during the course of and in furtherance of the conspiracy are admissible against the party as non-hearsay statements. Federal Rules of Evidence 801(d)(2)(E). All statements made by co-conspirators which the government intends to introduce against defendant as his own are discoverable.

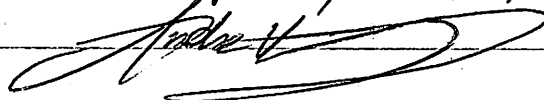
All statements made during the course of and in furtherance of the conspiracy by co-conspirators whom the government does not intend to call as trial witnesses are discoverable. (United States v. Nachamie, 91 F. Supp. 2d 565 SDNY 2000))

Indeed, statements of codefendants whom the government does not intend to call to testify at trial are not controlled by the Jencks Act. (Moore's Federal Practice 16.03 at 16-52 2nd ed. 1978)

The government has an obligation to disclose each defendant's own statements, ~~in~~ the interests of justice require the disclosure of all statements made during the course of and in furtherance of the conspiracy to all defendants.

Based on the preceding, the defendant, respectfully requests that the Court enter an order granting this motion.

Respectfully submitted,



Andre Wilburn